



DABC 2021 Legislative Update

HB371: Alcohol Omnibus Bill

Hotels

- 32B-1-102(53): Amends the definition of hotel to accommodate “condo hotels” that have one or more privately owned dwelling units.
- 32B-1-202 & 32B-1-202.1 Proximity/Community location:
 - Creates a specific exemption for certain hotel licensees
 - Allows the commission to issue a hotel license under certain conditions despite proximity issues pursuant to 32B-1-20.
- Authorizes the commission to approve a package agency at a hotel that meets the proximity requirements.
- Hotel includes a mixture of “regular” hotel rooms & privately owned units.
- Room service available to guests in any type of room (regular or privately owned).

Calculation of Ratio Food to Alcoholic Product Gross Sales

- 32B-1-207(3) exempts from the calculation an individual portion of spirituous liquor that exceeds \$30.

Public Service Permittees

- 32B-1-304(7)(b): Background check requirements apply only to those who:
 - “Engage in the management of the airline, railroad, or other public conveyance.”
 - Act in a supervisory or managerial capacity.
- Grants the commission rulemaking authority to define “engages in the management”.

Room Service

- 32B-1-102(113): Amends the definition of room service to include furnishing an alcoholic product to a person in a privately owned dwelling unit of a hotel or resort.
- 32B-6-605(12)(a) On-Premise Banquet:
 - Room service may be provided pursuant to a BC license at a hotel or resort to an adult guest in a privately owned dwelling unit
 - BC staff may not leave liquor outside a privately owned dwelling unit for retrieval by a guest or resident.
- 32B-2-605(15)(c)(iii) Package Agency:
 - Room service may be provided by a package agency at a hotel or resort to an adult guest in a privately owned dwelling unit.
 - Staff of the package agency may not leave liquor outside a privately owned dwelling unit for retrieval by a guest or resident.

Small Brewer

- 32B-2-304: Amends the definition of “small brewer” for purposes of the reduced mark-up to one that produces less than 60,000 barrels per year.
 - Authorizes the department to revoke the small producer reduced markup granted to a distillery, winery, or brewery, if the department determines the manufacturer no longer qualifies for the reduced markup.
- 32B-1-102(21): Specifically exempts from the barrel calculation any product that is unfit for consumption or not used in a beverage.
 - If the brewer is part of a controlled group of breweries, the combined volume totals of production for all breweries that constitute the controlled group are calculated to determine if the brewer qualifies as a “small brewer.”
- 32B-1-102(27): Grants the commission rulemaking authority to define “controlled group of breweries.”
- 32B-11-504: Requires a brewer applying for small brewer status to provide to the department any documentation or information the department determines necessary to determine whether the brewer is party of a controlled group of breweries.
 - Grants the department authority to revoke a brewer’s small brewer status at any time if the department determines that the brewer no longer qualifies.

Gross Revenue Deposits

- 32B-2-306: Amends the percentage of total gross revenue from sales of liquor deposited in the Underage Drinking Prevention Media and Education Campaign Restricted Account from .468% to .6%.

Package Agency Bond

- 32B-2-604: Requires a consignment Package Agency to post a cash or surety bond of at least \$1,000.
 - Consistent with penal bond requirement for all licensees & non-consignment PAs.
 - This is in addition to consignment bond.

Sale to Minors & Intoxicated Persons

- 32B-4-403; 32B-4-404: Clarifies that class A misdemeanor criminal liability applies only to the sale of alcohol to a minor where said minor is the **purchaser**, not merely the “recipient” of the alcohol.
 - Clarifies that misdemeanor criminal liability applies only to the sale of alcohol **directly** to an intoxicated person.

Late Renewals for Retail Licenses

- 32B-5-202: Grants the Commission the ability to enact rules establishing parameters for late renewals for retail licenses, including the appropriate fee associated with such.

Conditional Retail Licenses

- 32B-5-205(4): Extends the validity of conditional **retail** licenses to a maximum of two years
 - 18-month initial expiration; and

- Commission may grant an additional 6 months.

Transporting Alcohol Across Sublicensed Premises

- 32B-8d-104: Allows a patron to transport beer between the sublicensed premises of an arena licensee's sublicenses if:
 - The sublicensed premises are adjacent to each other; and
 - Where beer is permitted.
- Specifically allows an employee of a hotel or resort or sub-licensee within a hotel or resort to transport alcohol across various areas (including unlicensed areas), as long as:
 - they remain within the licensed boundary of the hotel premise; and
 - any sublicensed premises they cross is licensed for the specific type of alcoholic beverage (e.g., cannot transport a spirituous drink across the premises of a beer-only restaurant).
- Applies to the following sublicense types within a hotel or resort:
 - Restaurants (all types)
 - Bars
 - On-Premise Beer Retailer (Beer Rec)

Change of Ownership

- 32B-5-310: Requires a retail licensee to notify the department within 60 days of a change in ownership.

License Transfer Act

- 32B-8a-101 et seq: Clarifies that alcohol license does not include a:
 - Master full-service restaurant license;
 - Master limited-service restaurant license; or
 - Master off-premise beer retailer state license.
- Clarifies meaning of transferor and transferee to include seller or buyer.
- 32B-8a-201: Transferability.
 - Replaces the burden on the department of determining whether the transferee/buyer is delinquent re: taxes with the transferee/buyer's obligation to attest, subject to the penalty for making a false statement, that they are in compliance with various tax laws.
- 32B-8a-302: Application/Approval Process/Escrow Claims.
 - Deletes obligation to post notice of intended transfers on the Public Notice Website.
 - Requires the buyer to attest they are current on taxes etc.
- 32B-8a-203: Extension of Time to Become Operational After Transfer.
 - Clarifies that the building permit requirement related to the commission's authority to grant an extension (to become operational) applies only if the local government entity requires a building permit for the premise improvements.
- 32B-8a-303: Transfer Fees.
 - Transfer fee for a change of location (no ownership change) is \$300.
- Repeals Part 4, Protection of Creditors (replaced by requiring attestation subject to penalty for false statement).
- Modifies transfer fees for a simple change of location (no ownership change).

On-Premise Beer (Beer Recs)

- 32B-6-703(2)(3): Clarifies ownership/operational issues.
- Adds a third option for qualifying to hold a beer rec license:

- Narrowly tailored to apply only to a beer rec that is on or directly adjoining a ski resort in operation as of January 2021.
- Requires the licensee to have permission from the ski resort owner.
- Beer Rec licensee must maintain at least 70% of total gross revenue from food sales.

Hospitality Amenities

- 32B-6-1004(5) (Line 1758): Clarifies that the commission has the authority to grant/approve additional locations.

Manufacturing

- 32B-11-202(2): Allows consumers to make wine or beer, for at home personal consumption only, at a brewery or winery without a special permit or license under the supervision of the winery or brewery licensee.
- The current statutory production limits in order to be exempt from licensing requirements. See 32B-11-202(2)(b)

Liquor Warehouse

- 32B-12-205: Outlines the factors the commission must consider before approving a change of location for a liquor warehouse.
 - Application.
 - Physical characteristics of premises:
 - Location
 - Proximity to transportation; and
 - Condition, size, & security of licensed premises
 - Any other factor the commission considers necessary.
- 32B-12-207: Changing location.
 - Allows for a change of location if:
 - The applicant submits:
 - A completed application
 - A nonrefundable \$300 application fee
 - Written local consent
 - A floor plan of the warehouse & liquor storage area
 - Any other information the commission or department may require; and
 - The applicant/licensee begins operation at the new facility within 30 days of the commission's approval of the change in location.

Emergency Action/Suspension

- 63G-4-102: Exempts from UAPA the DABC Director's emergency suspension of operations for a package agency, licensee, or permittee.

False IDs for CUBS

- 77-39-101: Allows CUBS to use false identification (although the ID must bear their photo and correct age) during a sting operation.
- False ID must be created by the Department of Public Safety and retained by law enforcement at all times except when in actual use during the sting operation.

SB137 ABC Retail Store Amendments:

- Amends DABC's base budget to include a minimum wage for retail salesclerks, managers, assistant managers, & warehouse personnel.
- DHRM to establish market median; wages set at the prior year's market median.

SB143 Revenue Bond & Capital Facilities Amendments:

- Expresses the legislature's intent relating to the State Building Ownership Authority's issuance of monetary obligations to finance:
 - A new liquor store in Sugarhouse (up to \$11,725,700).
 - A new state liquor store in east Sandy (up to \$5,524,000).
- Allows the DABC to:
 - Use sales revenue as the primary source of repayment of any obligation for the Sugarhouse & east Sandy stores;
 - Request operation & maintenance funding (for both new stores) from sales revenue; and
 - Use up to \$5,000,000 to repay the State Store Land Acquisition Fund.

SB188 Procurement Code Revisions:

- Allows the procurement of funds for the establishment of a state liquor store to bypass the standard procurement process.
- Adds certain criteria to the bid process.